

SENATE BILL 545  
By Fowler

AN ACT to amend Tennessee Code Annotated, Title 9,  
Chapter 4; Title 33, Chapter 1 and Title 49,  
Chapter 2, relative to the mental health of children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, is amended by adding the following language as a new, appropriately designated part:

**§ 9-4-5701.**

Notwithstanding the provisions of any law to the contrary, except to the extent as may be specifically authorized by enactment of the general assembly taking effect on or after July 1, 2005, no state agency or official shall expend or commit the expenditure of any federal or state funds or otherwise initiate or administer any program intended to implement or perform routine or comprehensive mental health tests or screenings of Tennessee children pursuant to recommendations, guidelines or policies issued by the President's New Freedom Commission on Mental Health or any other federal mental health program.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 2, Part 1, is amended by adding the following language as a new, appropriately designated section:

**§ 49-2-121.**

(a) As used in this section, "psychotropic drug" means a substance that is:

- (1) Used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and
- (2) Intended to have an altering effect on perception, emotion, or behavior.

(b) Notwithstanding the provisions of any law to the contrary, an employee of a local education agency may not:

(1) Recommend that a student use a psychotropic drug;

(2) Suggest any particular mental health diagnosis; or

(3) Use a parent or guardian's refusal to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation, screening, or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity or as the basis of child abuse or neglect.

(c) The provisions of subsection (b) shall not be construed to:

(1) Prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended;

(2) Prohibit a LEA employee who is a registered nurse, nurse practitioner, physician, or an appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or

(3) Prohibit a LEA employee from discussing any aspect of a child's behavior or academic progress with the child's parent or guardian or another school district employee.

(d) The governing board of each LEA shall adopt such policies as may be reasonable and necessary to ensure implementation and enforcement of this section.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. Sections 1 and 3 of this act shall take effect upon becoming a law, the public welfare requiring it; and Section 2 shall take effect July 1, 2005, the public welfare requiring it..